

AMENDED IN ASSEMBLY APRIL 8, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 829

Introduced by Assembly Member Thomson

February 27, 1997

An act to amend Sections 901, 914, 933, 933.05 of, and to add Sections 924.5 and 938.4 to, the Penal Code, relating to grand juries.

LEGISLATIVE COUNSEL'S DIGEST

AB 829, as amended, Thomson. Grand juries.

(1) Existing law provides that persons selected for grand jury service shall serve for one year and until other persons are selected.

This bill would provide for the selection of a civil grand jury to serve for 18 months unless the court determines that this would be detrimental to its ability to impanel a civil grand jury.

(2) Existing law requires each grand jury, no later than the end of each fiscal or calendar year, to submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters.

The bill would require a grand jury to meet with the chief executive or department head of an agency subject to its investigation to discuss the nature of the investigation and to receive the comments of the chief executive or department head. The bill would also provide that each grand jury shall

submit its final report no later than 30 days prior to the expiration of its term and require the grand jury to be available during the 30-day period prior to the expiration of its term to discuss its findings and recommendations with the chief executive or department head of an affected agency.

(3) The act would be known as the Civil Grand Jury Training, Communication, and Efficiency Act of 1997. The bill would include a statement of legislative intent.

(4) The bill would establish a state-mandated local program by imposing new duties on local officials.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited
2 as the Civil Grand Jury Training, Communication, and
3 Efficiency Act of 1997.

4 SEC. 2. It is the intent of the Legislature to encourage
5 civil grand juries to communicate more efficiently with
6 the subjects of their investigations in an effort to enhance
7 the likelihood of implementation of the civil grand jury's
8 reports.

9 SEC. 3. Section 901 of the Penal Code is amended to
10 read:

11 901. (a) The persons whose names are so returned
12 shall be known as regular jurors, and shall serve for one
13 year and until other persons are selected and returned.



1 The superior court shall order a civil grand jury to serve
2 for 18 months, unless the court determines that it would
3 be detrimental to its ability to impanel a civil grand jury.

4 (b) If the superior court so decides, the presiding
5 judge may name up to 10 regular jurors not previously so
6 named, who served on the previous grand jury and who
7 so consent, to serve for a second term.

8 (c) The court may also decide to select grand jurors
9 pursuant to Section 908.2.

10 SEC. 4. Section 914 of the Penal Code is amended to
11 read:

12 914. (a) When the grand jury is impaneled and
13 sworn, it shall be charged by the court. In doing so, the
14 court shall give the grand jurors such information as it
15 deems proper, or as is required by law, as to their duties,
16 and as to any charges for public offenses returned to the
17 court or likely to come before the grand jury.

18 (b) To assist a civil grand jury in the performance of its
19 statutory duties, the court, in consultation with the
20 district attorney and the county counsel, shall ensure that
21 a civil grand jury receives training that addresses, at a
22 minimum, report writing, interviews, and the scope of
23 the grand jury's responsibility and statutory authority.

24 SEC. 5. Section 924.5 is added to the Penal Code, to
25 read:

26 924.5. A civil grand jury may meet with the chief
27 executive or department head of an agency under
28 investigation to discuss the nature of the investigation and
29 to receive input from the chief executive or department
30 head.

31 SEC. 6. Section 933 of the Penal Code is amended to
32 read:

33 933. (a) No later than 30 days prior to the expiration
34 of its term, each grand jury shall submit to the presiding
35 judge of the superior court a final report of its findings and
36 recommendations that pertain to county government
37 matters other than fiscal matters during the fiscal or
38 calendar year. Final reports on any appropriate subject
39 may be submitted to the presiding judge of the superior
40 court at any time during the term of service of a grand

1 jury. A final report may be submitted for comment to
2 responsible officers, agencies, or departments, including
3 the county board of supervisors, when applicable, upon
4 finding of the presiding judge that the report is in
5 compliance with this title. One copy of each report found
6 to be in compliance with this title shall be placed on file
7 with the county clerk and remain on file in the office of
8 the county clerk. During the 30-day period prior to the
9 expiration of its term, the grand jury shall be available to
10 discuss its recommendations concerning an agency with
11 its chief executive or governing body.

12 (b) No later than 30 days prior to the expiration of its
13 term, each grand jury shall submit to the presiding judge
14 of the superior court a final report of its findings and
15 recommendations that pertain to fiscal matters of county
16 government during the fiscal or calendar year of the
17 county. During the 30-day period prior to the expiration
18 of its term, the grand jury shall be available to discuss its
19 recommendations concerning an agency with its chief
20 executive or governing body.

21 (c) No later than 90 days after the grand jury submits
22 a final report on the operations of any public agency
23 subject to its reviewing authority, the governing body of
24 the public agency shall comment to the presiding judge
25 of the superior court on the findings and
26 recommendations pertaining to matters under the
27 control of the governing body, and every elective county
28 officer or agency head for which the grand jury has
29 responsibility pursuant to Section 914.1 shall comment
30 within 60 days to the presiding judge of the superior
31 court, with an information copy sent to the board of
32 supervisors, on the findings and recommendations
33 pertaining to matters under the control of that county
34 officer or agency head and any agency or agencies which
35 that officer or agency head supervises or controls. In any
36 city and county, the mayor shall also comment on the
37 findings and recommendations. All such comments and
38 reports shall forthwith be submitted to the presiding
39 judge of the superior court who impaneled the grand
40 jury. A copy of all responses to grand jury reports shall be

1 placed on file with the clerk of the public agency and the
2 office of the county clerk, or the mayor when applicable,
3 and shall remain on file in those offices. One copy shall be
4 placed on file with the applicable grand jury final report
5 by, and in the control of the currently impaneled grand
6 jury, where it shall be maintained for a minimum of five
7 years.

8 SEC. 7. Section 933.05 of the Penal Code is amended
9 to read:

10 933.05. (a) For purposes of subdivision (c) of Section
11 933, as to each grand jury finding, the responding person
12 or entity shall indicate one of the following:

13 (1) The respondent agrees with the finding.

14 (2) The respondent disagrees wholly or partially with
15 the finding, in which case the response shall specify the
16 portion of the finding that is disputed and shall include an
17 explanation of the reasons therefor.

18 (b) For purposes of subdivision (c) of Section 933, as
19 to each grand jury recommendation, the responding
20 person or entity shall report one of the following actions:

21 (1) The recommendation has been implemented,
22 with a summary regarding the implemented action.

23 (2) The recommendation has not yet been
24 implemented, but will be implemented in the future,
25 with a timeframe for implementation.

26 (3) The recommendation requires further analysis,
27 with an explanation and the scope and parameters of an
28 analysis or study, and a timeframe for the matter to be
29 prepared for discussion by the officer or director of the
30 agency or department being investigated or reviewed,
31 including the governing body of the public agency when
32 applicable. This timeframe shall not exceed six months
33 from the date of publication of the grand jury report.

34 (4) The recommendation will not be implemented
35 because it is not warranted or is not reasonable, with an
36 explanation therefor.

37 (c) However, if a finding or recommendation of the
38 grand jury addresses budgetary or personnel matters of
39 a county department headed by an elected officer, both
40 the department head and the board of supervisors shall

1 respond if requested by the grand jury, but the response
2 of the board of supervisors shall address only those
3 budgetary or personnel matters over which it has some
4 decisionmaking authority. The response of the elected
5 department head shall address all aspects of the findings
6 or recommendations affecting his or her department.

7 (d) A grand jury ~~shall~~ *may* request a subject person or
8 entity to come before the grand jury for the purpose of
9 reading and discussing the findings of the grand jury
10 report that relates to that person or entity in order to
11 verify the accuracy of the findings prior to their release.

12 (e) During the investigation and prior to final
13 approval of the report, the grand jury shall meet with the
14 chief executive or department head of the investigated
15 agency to discuss the nature of the investigation and to
16 receive the comments of the chief executive or
17 department head.

18 (f) A grand jury shall provide to the affected agency
19 a copy of the portion of the grand jury report relating to
20 that person or entity two working days prior to its public
21 release and after the approval of the supervising judge.
22 No officer, agency, department, or governing body of a
23 public agency shall disclose any contents of the report
24 prior to the public release of the final report.

25 SEC. 8. Section 938.4 is added to the Penal Code, to
26 read:

27 938.4. The superior court shall arrange for a suitable
28 meeting room and other support as the court determines
29 is necessary for the grand jury.

30 SEC. 9. Notwithstanding Section 17610 of the
31 Government Code, if the Commission on State Mandates
32 determines that this act contains costs mandated by the
33 state, reimbursement to local agencies and school
34 districts for those costs shall be made pursuant to Part 7
35 (commencing with Section 17500) of Division 4 of Title
36 2 of the Government Code. If the statewide cost of the
37 claim for reimbursement does not exceed one million
38 dollars (\$1,000,000), reimbursement shall be made from
39 the State Mandates Claims Fund.



1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

O

